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September 2, 1997

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EXECUTIVE SECRETARY

VIA HAND DELIVERY

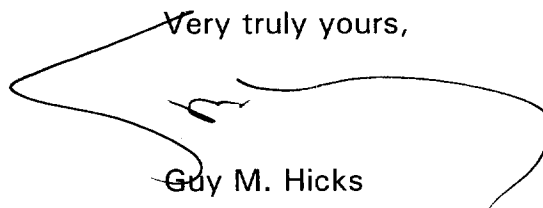
David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Universal Service Generic Contested Case*
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s ("BellSouth") Response to Comments in the above-referenced matter. Because this Response incorporates certain sections of BellSouth's August 21 filing in this proceeding, a copy of the August 21 filing is attached for ease of reference. Copies have been provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch

Enclosure

cc: Bennett L. Ross
Charles L. Howorth

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

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In Re: *Universal Service Generic Contested Case*

Docket No. 97-00888

BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE TO COMMENTS

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this response to certain comments filed by the parties in this docket.

PRELIMINARY ISSUES

A. Cost Model Issues

No response required.

B. Proposed Phase 1 & Phase 2 of Issues

BellSouth agrees with Sprint Communications Company L.P. and United Telephone-Southeast, Inc. ("Sprint") and Time Warner Communications of the Mid-South, L.P. ("Time Warner") that the first phase of this proceeding should be limited to those issues necessary for the Tennessee Regulatory Authority ("TRA") to complete its cost study for submission to the FCC by February 6, 1998; all remaining issues can be deferred until the second phase.

C. Proposed Schedule

Because of the February 6, 1998 filing deadline, the parties are in general agreement that the current proposed schedule will not suffice. Sprint has proposed

an alternative schedule, which BellSouth believes should generally be adopted by the TRA. However, this schedule should be modified to provide for the resolution of certain threshold questions that must be answered before the parties can produce actual cost studies (*e.g.*, what services should be supported, how should the service area be defined, etc.).

AT&T Communications of the South Central States, Inc. ("AT&T") has set forth a dizzying sequence of events in its proposed schedule, which BellSouth believes is completely unworkable. BellSouth also disagrees with AT&T's suggestion that the TRA should decide "policy" issues without the benefit of testimony. The issues in this docket are too important and sufficiently complex such that legal briefs alone will not give the TRA the necessary information upon which to make decisions. The TRA should be able to hear from and question witnesses about the various proposals the parties have advanced for universal service in Tennessee, which the TRA cannot do if it only receives legal briefs.

However, BellSouth believes that the list of issues AT&T has developed is very comprehensive and, with some modification, could form the basis of the statement of issues in any Report and Recommendation by the Hearing Officer in this docket. BellSouth suggests that the parties confer prior to the Status Conference on September 10, 1997, in attempt to reach agreement on the issues to be decided in this proceeding and which of those should be resolved in Phase I and Phase 2.

D. Consolidation

Although the parties disagree about whether this proceeding and Docket No. 97-00889 should be consolidated, there appears to be uniform agreement that the issues in both dockets are closely related. BellSouth concurs with the observation by Time Warner that "[a]ccess charges are merely one of the component issues in the universal service docket." (Time Warner Comments at 2). However, BellSouth disagrees with Time Warner's suggestion that "the two dockets should proceed concurrently," since, as Sprint correctly noted, the State universal service fund "must be established before any rate adjustments, including access charge adjustments to remove implicit USF subsidies, can be accomplished." (Sprint Comments at 2). Indeed, even AT&T acknowledges that "the universal service docket should have sequential priority over the access charge reform docket." (AT&T's Comments at 23).

E. Regulations Contemplated

See BellSouth's Comments filed on August 21, 1997.

F. Non-rural and Rural Carriers:

See BellSouth's Comments filed on August 21, 1997.

ISSUES FOR CONSIDERATION

IV. Definition of Universal Services

Under Tennessee law, Universal Service is defined in Tenn. Code Ann. § 65-5-207(a). The Telco Act section 254(c) defines Universal Service.

Under section 254(f), the Act provides a State may adopt regulations "not inconsistent with the Authority's rules to preserve and advance universal service."

A. ISSUE: Is Tennessee's definition under Tenn. Code Ann. § 65-5-207 (a), consistent with the Federal Act's definition of Universal Service? If not, is Tennessee's definition preempted by the Federal Act?

RESPONSE: BellSouth agrees with Time Warner, MCI Telecommunications Corporation ("MCI"), and the Coalition of Small LECs and Cooperatives ("Coalition") that the FCC's definition of the "core" or "designated" services that will receive federal universal service support is generally consistent with the definition of "residential basic local exchange service" which universal service must support under Tennessee law. (Time Warner's Comments at 4; MCI's Comments at 1; Coalition Comments at 6). Although the federal definition includes several services that are not specifically delineated in the Tennessee statute (*e.g.*, access to operator services, etc.), this does not make the federal and state laws inconsistent, as suggested by Sprint and Citizens Telecommunications Company of Tennessee, LLC and Citizens Telecommunications Company of the Volunteer State ("Citizens"). Rather, as the Coalition correctly notes, the definition of "basic local exchange telephone service" in T.C.A. § 65-5-208(a) includes "other services required by state or federal statute"; thus the additional services set forth in the federal definition of "core" or "designated" services are subsumed within the definition of "basic local exchange telephone service" under Tennessee law. This also would

include single line business lines, which the FCC has determined should receive universal service support.

B. ISSUE: Should the TRA recommend to the Tennessee legislature that they adopt the Federal definition of Universal Service?

RESPONSE: BellSouth agrees with Time Warner, MCI, and the Coalition that there is no need for the Tennessee legislature to amend the definition of "basic local exchange telephone service" for State universal service purposes, since the applicable federal and State definitions are consistent. (Time Warner Comments at 5; MCI Comments at 1; Coalition Comments at 6). Although BellSouth agrees with Sprint that single line business lines should be supported by the State universal service fund, such lines will be supported under state law by virtue of the FCC's determination that the Telecommunications Act of 1996 requires support for single line business lines and the catch-all phrase at the end of T.C.A. § 65-5-208(a). Thus, no need exists for the Legislature to amend T.C.A. § 65-5-208(a), as Sprint and Citizens propose.

C. ISSUE: Whether the Federal or Tennessee definition of Universal Service or some combination of both is followed, what services should be provided?

RESPONSE: The parties are in general agreement that those services defined by the FCC as "core" or "designated" services should receive State universal service support.

D. ISSUE: Should the TRA provide for additional support under a Tennessee mechanism, for services in addition to those set forth by the FCC?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

E. ISSUE: Should the TRA adopt specific procedures for passing upon "exceptional circumstances" as set forth in paragraphs 89-92 of the FCC order?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

F. ISSUE: Are there any telephone companies that will not be able to offer all the elements of Universal Service by the end of 1998? (e.g. toll blocking) If this is a problem, what steps are needed to remedy the situation?

RESPONSE: BellSouth agrees with the Coalition that "virtually no LEC in the nation is capable of providing" toll control as defined by the FCC. (Coalition Comments at 9). BellSouth also agrees with the Coalition's proposal that the TRA should grant a blanket waiver with respect to the toll control requirement so as not to jeopardize the eligibility of any telecommunications carrier, particularly since the toll control issue is the subject of reconsideration by the FCC.

V. Affordability

A. Define and consider affordability of rates:

Section 254(b)(1) of the Telco Act provides that, "quality services should be available at just, reasonable, and affordable rates." The definition of affordability contains both an absolute component "to have enough or the means for", which takes into account an individual's means to subscribe to Universal Service; and a relative component "to bear the cost of without serious detriment", which takes into account whether consumers are spending a disproportionate amount of their income on telephone service.

1. ISSUE: Provided that existing rates were set to the "just and reasonable" standard pursuant to Tenn. Code Ann. § 65-5-201, is there an assumption that current rates are set at an affordable level?

RESPONSE: There is no merit to MCI's claim that existing rates may not be "affordable," (MCI's Comments at 2), particularly given that Tennesseans enjoy some of the lowest basic residential telephone rates in the United States. Indeed, BellSouth agrees with Time Warner that "since the rates for residential basic telephone service have traditionally been artificially depressed, higher rates most probably could meet the 'just, reasonable and affordable' standard." (Time Warner's Comments at 7).

2. ISSUE: Does the existence of programs to support low income consumers, further the argument that current rates meet the affordability requirement in Tennessee?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

3. ISSUE: Are there other factors that should be considered?

RESPONSE: BellSouth agrees with Time Warner that customer income level is an appropriate factor to consider in determining "affordability." (Time Warner's Comments at 7). However, BellSouth believes that Time Warner's proposal that universal service support should be limited to "households with income levels below the seventieth income percentile" is administratively unworkable. Furthermore, Time Warner's proposal would appear to violate both state and federal law. For example, T.C.A. § 65-4-123 ensures universal service for all consumers by mandating that "rates charged to residential customers for essential

telecommunications services shall remain affordable"; that mandate is not limited to only certain customers depending upon how much they earn. Likewise, Section 254(b)(3) of the Telecommunications Act of 1996 requires that "[c]onsumers in all regions of the Nation ..." should enjoy "reasonably comparable" telecommunications services at "reasonable comparable" prices; that requirement extends to all consumers, including those in the top thirtieth income percentile.

B. ISSUE: The FCC did not choose to adapt a nationwide rate for Universal Service. Should Tennessee adopt a statewide universal rate?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

C. ISSUE: Define explicit subsidy.

PROPOSAL FOR COMMENT: Explicit subsidy is a support that is calculable and identifiable vs. implicit subsidy which generally means there is a support but the exact amount of that support has not been determined. Is there a more appropriate definition?

RESPONSE: BellSouth agrees with those parties which propose that any definition of explicit subsidy should incorporate the concept of competitive neutrality. (MCI Comments at 3; Citizens Comments at 10).

D. ISSUE: How may complaints filed on the affordability of intrastate rates be addressed?

PROPOSED REQUESTED: The FCC identifies several components to be considered when determining affordability of rates, such as subscribership levels, size of local calling area, consumer income level, cost of living, etc. What procedures would be least burdensome on carriers and the TRA, and would provide the information necessary to determine if rates are affordable on an ongoing basis?

RESPONSE: The parties generally agree that existing TRA procedures are adequate to address any complaint challenging the affordability of rates. (Coalition Comments at 12; Sprint Comments at 7; Citizens Comments at 10).

VI. Carriers Eligible for Universal Service Support

A. ISSUE: Define carrier of last resort.

PROPOSAL FOR COMMENT: The Staff defines carrier of last resort as the carrier ultimately responsible for the provision of telephone service including the provision of Universal Service core elements in a given area. Is there a better decision?

RESPONSE: The parties generally agree that the proposed definition is acceptable, (Coalition Comments at 12-13; Sprint Comments at 8; Time Warner Comments at 9), although BellSouth believes that the TRA should address the concerns set forth in BellSouth's Comments filed on August 21, 1997.

AT&T is the only party to claim that the concept of a carrier of last resort is "obsolete and not relevant." (AT&T Comments at 27-28). Although BellSouth agrees that the term "eligible telecommunications carrier" and "carrier of last resort" are synonymous when there is only one carrier serving a particular area, the carrier of last resort concept has not been "replaced" by federal law, as AT&T contends. Furthermore, AT&T's argument that a single eligible telecommunications carrier serving a particular area cannot relinquish its designation and must continue to provide service regardless of the circumstances is not supported by either federal or state law. Of course, a carrier's relinquishment of its service area would be unnecessary if there is adequate universal service support.

B. ISSUE: Determine if a carrier of last resort designation is necessary.

PROPOSAL FOR COMMENT: The designation of a carrier of last resort for a given region is necessary to ensure that all Tennessee consumers are provided with telecommunication services. If no carrier of last resort is designated there is the potential danger of some consumers not being served. At what point, if any, would carrier of last resort designation become unnecessary.

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

C. ISSUE: What mechanism should be put in place if a carrier proposes to withdraw service?

PROPOSAL FOR COMMENT: It appears that mechanisms need to be developed to address the possibility that a carrier of last resort may desire to withdraw service in one or all regions which it serves. Allowing a carrier of last resort to withdraw needs to be based on specific and predictable criteria. At a minimum, the Staff proposes that no carrier of last resort should be allowed to withdraw service prior to the designation of another carrier to serve as the carrier of last resort. Do you have any suggestions on the criteria that needs to be established in order to allow a carrier to withdraw as carrier of last resort?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

D. ISSUE: What criteria should be used to designate eligible telecommunication carriers?

PROPOSAL FOR COMMENT: The FCC concluded that the plain language of section 214(e) precludes adoption of additional eligibility criteria beyond those enumerated in that section. Therefore, the FCC adopted without expansion the statutory criteria set out in section 214(e), as the rules governing eligibility. The Staff proposes to use the eligibility criteria of section 214(e) to designate eligible telecommunication carriers. Do you agree with this proposal?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

E. ISSUE: Should Universal Service support be provided to cellular carriers and resellers.

PROPOSAL FOR COMMENT: The FCC adopted without expansion the statutory criteria set out in section 214(e) as the rules governing eligibility. The FCC interpreted the term "facilities" in section 214(e)(1) to mean any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1). The FCC further concluded that a carrier that offers any of the services designated for Universal Service support, either in whole or in part, over facilities obtained as unbundled network elements pursuant to section 251(c)(3) satisfies the "own facilities" requirement of section 214(e). The staff recommends that the TRA use the criteria set forth by the FCC and to the extent that cellular carriers or resellers meet these criteria, they should be provided Universal Service support. Do you agree with this recommendation?

RESPONSE: BellSouth agrees with Sprint and Time Warner that, in a resale situation, the underlying provider of the actual facilities should receive the universal service support, and not the reseller. (Sprint Comments at 9; Time Warner at 10-12). As both Sprint and Time Warner correctly note, the level of facilities a carrier must provide in order to be eligible for universal service support is currently unsettled.

F. ISSUE: What is the appropriate role of cooperatives in this proceeding?

PROPOSAL FOR COMMENT: Section 254(f) states, "Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of Universal Service in that State." It is clear that cooperatives will contribute to and receive support from the Universal Service support fund. Because the cooperatives will be included in the results of this proceeding, the Staff believes that cooperatives should be encouraged to participate fully in the Universal Service docket. Do you agree?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

VII. High Cost Support

A. ISSUE: Should Tennessee perform its own forward looking cost study to determine intrastate Universal Service support? If not, should it work in conjunction with the FCC to determine methodology and inputs and adopt the FCC cost and revenue benchmark calculations? **Please note that comments on this issue are due August 1, 1997. Please see page 2, section A.**

PROPOSAL FOR COMMENT: As stated above, in "Preliminary Matters" the Directors of the TRA will consider the issue of whether Tennessee should develop its own cost study at the Conference scheduled for August 5, 1997. Therefore, if the parties desire to comment further on this issue, they should file those comments by August 1, 1997.

RESPONSE: No response required.

B. ISSUE: If it is determined that Tennessee will do a cost study what would be the core elements? (i.e. residential, business, usage).

1. What area should be included in each cost study?

2. The FCC requires deaveraging to the wire center serving area at least, and to smaller areas if feasible. Is this appropriate?

PROPOSAL FOR COMMENT: FCC Order 97-157 sections 54.101 and 54.207 set forth the services designated for support and service areas. Is it appropriate for Tennessee to adopt these services? If not, what services do you believe should receive Universal Service support. Also please comment on how service areas may be defined in Tennessee.

RESPONSE: BellSouth disagrees with AT&T's proposal that "[t]he TRA should require nonrural telephone companies to file a proposed service area designation ..., " which, according to AT&T, would be put out for comment and used by the TRA to establish service areas. (AT&T Comments at 29). AT&T's proposal is unnecessary since a non-rural carrier's total service area will continue to

be comprised of the same service area it currently serves, at least upon initiation of the State universal service fund. Nothing in either the Telecommunications Act of 1996 or T.C.A. § 65-5-207 suggests that a universal service funding mechanism will or should affect a non-rural carrier's franchise area.

C. ISSUE: What elements should be included in the revenue benchmark?

PROPOSAL FOR COMMENT: The Staff expects to use the elements that will be included in the national benchmark, (local, discretionary, interstate and intrastate access services, and other revenues used in the cost study). Do you feel these are the appropriate elements to be included in the benchmark?

RESPONSE: BellSouth agrees with Sprint and Citizens that it is inappropriate to include within any revenue benchmark services that include the implicit support which explicit universal service support is meant to replace. (Sprint Comments at 12; Citizens Comments at 13). BellSouth agrees with Sprint's proposal that any revenue benchmark should only include local basic service and any applicable subscriber line charges.

VIII. Support for Low Income Consumers

A. ISSUE: Define a process to address any waiver requests of carriers to the no-disconnect rule.

PROPOSAL FOR COMMENT: The no-disconnect rule would prohibit disconnection of local service for Lifeline customers for non payment of toll charges. Despite the benefits of a no-disconnect rule for Lifeline consumers, the FCC recognized that state utility regulators would have the ability to grant carriers a limited waiver of the requirement under limited special circumstances. The Staff suggests that the TRA adopt the three requirements of the FCC for granting a waiver request. What is your position?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

B. ISSUE: Determine if the current level of state discounts for Lifeline should be changed.

PROPOSAL REQUESTED: Currently, Tennessee provides \$3.50 per month support of Lifeline. At the state's current level of funding (\$3.50/month) the FCC will provide an additional \$7.00 in federal support for a total of \$10.50 in support. If this level of support is maintained, then procedures may be considered to prevent Lifeline customers from receiving 100% free service. For instances, should a minimum amount be charged to the Lifeline customer? Please comment.

Tennessee has the option of reducing its monthly support amount, which in turn would reduce the federal funding. Any reduction in Tennessee's current funding of \$3.50 will result in a Federal reduction of one half of the amount of the Tennessee reduction, down to the minimum Federal funding amount of \$5.25. For example, Tennessee funds \$1.00, Federal minimum funding \$5.25. Federal matching of 1/2 of state is \$.50. This would provide total support of \$6.75. Please comment.

RESPONSE: BellSouth agrees with Time Warner, Citizens, and the Coalition that Tennesseans should have access to the maximum benefits available under the Federal Lifeline program. (Time Warner Comments at 15; Citizens Comments at 14; Coalition Comments at 17-18).

C. ISSUE: Develop funding mechanisms.

PROPOSAL REQUESTED: The TRA requests comments from the parties on how funding for this support can be accomplished.

RESPONSE: Although BellSouth agrees with AT&T that any universal service funding mechanism should be competitively neutral, BellSouth does not agree with AT&T's funding proposal. (AT&T Comments at 31). AT&T's position in Tennessee that contributions to the State universal service fund should be based

on the carrier's "gross intrastate end user revenue, net of payments to other carriers" is inconsistent with the position AT&T took at the FCC and is contrary to the FCC's conclusion that universal service contributions should be based upon retail end user revenues. See Report and Order, *In re: Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, ¶ 40 (May 8, 1997).

X. Schools and Libraries

See BellSouth's Comments filed on August 21, 1997.

XI. Support for Health Care Providers

See BellSouth's Comments filed on August 21, 1997.

XIII. Administration of Support Mechanisms

A. ISSUE: Determine which companies qualify as non-rural carriers and are subject to 1/1/99 Universal Service support.

PROPOSAL FOR COMMENT: BellSouth and United Telephone Southeast are the only companies which the Staff has identified as non-rural carriers. Are there others?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

B. ISSUE: Determine method for transition from current support to new support.

PROPOSAL REQUESTED: The new support mechanisms approved will be the determining factor of the impact on transition from old support to the new system. Since the fund administrator is responsible for maintaining the new fund, it may be appropriate to allow the administrator to design a system for the transition. Please provide your opinion on a transition process.

RESPONSE: BellSouth agrees with the concerns expressed by Sprint and the Coalition that the establishment of a State universal service fund may require increasing rates for certain telecommunications services, particularly since T.C.A. § 65-5-207(c)(5) requires that a carrier's rates be rebalanced in an amount equal to the financial effect caused by the creation of the State universal service fund. (Sprint Comments at 16; Coalition Comments at 20).

C. ISSUE: Determine the structure of the intrastate Universal Service fund.

PROPOSAL REQUESTED: The TRA requests comments from the parties on these specific issues regarding the structure of the intrastate Universal Service Fund.

1. How will it be created?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

2. Will it be consistent with or not consistent with the Federal fund?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

3. Who will contribute to it?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

4. How often will contributions be made?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

5. What basis should be used for contributions?

RESPONSE: BellSouth agrees with Sprint that the State universal service fund should be funded through an assessment on intrastate retail telecommunications services revenues, which is consistent with the FCC's

approach. (Sprint Comments at 18). MCI's position that contributions should be assessed on the basis of the carrier's "total end user revenues net of payments to other carriers" was rejected by the FCC, and should be rejected by the TRA. (MCI Comments at 9).

6. Who is eligible to receive support?

RESPONSE: All parties agree that any carrier certified as "eligible" by the state commission is able to receive universal service support.

7. How funds will be distributed?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

8. How should the TRA ensure that the fund is non-discriminatory and competitively neutral?

RESPONSE: BellSouth disagrees with MCI that the TRA "must first eliminate the implicit support contained in access charges and determine the amount of actual support need, if any, and make that support explicit." (MCI Comments at 9). MCI has it backwards; the TRA must first determine the amount of universal service support and make such support explicit before current implicit subsidies are addressed. Furthermore, access charges should not be treated any differently than other services, such as business service and vertical features, that historically have been used to subsidize low residential rates.

D. ISSUE: Determine notification requirements regarding companies' certification of rural carrier status.

PROPOSAL REQUESTED: A carrier must notify the FCC and its state Commission, that for purposes of Universal Service support determinations, it meets the definition of a rural carrier. Carriers should make such a notification each year prior to the beginning of the Universal Service Fund payout period for that year. What procedures can be put in place to ensure that rural carriers satisfy this requirement?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

E. ISSUE: Determine need for public interest payphones and develop funding mechanisms, if required.

PROPOSAL REQUESTED: Please provide comments on what criteria you believe is necessary for determining the need for a public interest payphone. Funding for public interest payphones may come from various sources such as the Universal Service Fund or an additive or charge on payphone access lines. What type of funding mechanisms do you believe would be appropriate for funding of public interest payphones.

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

F. ISSUE: Determine if the TRA should administer the intrastate Universal Service Fund.

PROPOSAL REQUESTED: Please provide comments.

RESPONSE: Most parties appear to agree that the fund should be administered by a neutral third party, rather than the TRA. (Coalition Comments at 23; Time Warner Comments at 21; Citizens Comments at 18) However, most parties also agree that the TRA should have ongoing oversight responsibilities.

G. ISSUE: Appoint intrastate Universal Service Fund Administrator.

PROPOSAL REQUESTED: What criteria should be established to determine qualifications as fund administrator?

RESPONSE: See BellSouth's Comments filed on August 21, 1997.

H. ISSUE: Determine if contributions to the Universal Service fund may be recovered by contributors (i.e. passed on to end users).

PROPOSAL REQUESTED: The FCC adopted a contribution assessment methodology that is competitive neutral and easy to administer. Contributions will be assessed against end users telecommunication revenues, revenues derived from end users for telecommunications, and telecommunications services, including SLCs. Please provide comments.

RESPONSE: No one disputes that contributing carriers should be able to recover their payments into the universal service fund. (AT&T Comments at 34; Time Warner at 22; Coalition Comments at 24; Citizens Comments at 19; Sprint Comments at 20). Furthermore, most parties, including BellSouth, support recovery through a uniform end user surcharge. (Time Warner Comments at 22; Citizens Comments at 19; Sprint Comments at 20).

XIV. Other

See BellSouth's Comments filed on August 21, 1997.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 2, 1997, a copy of the foregoing document was served on the parties of record, via U. S. Mail, postage pre-paid, addressed as follows:

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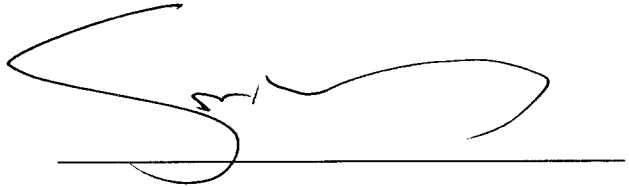
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A handwritten signature in black ink, appearing to read "J. W. Dempster", is written over a horizontal line.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Universal Service Generic Contested Case*

Docket No. 97-00888

**BELLSOUTH TELECOMMUNICATIONS, INC.'S
RESPONSE TO HEARING OFFICER'S NOTICE OF
PROPOSED SCHEDULE AND REQUEST FOR COMMENTS**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this response to the July 28, 1997 request for information from the Hearing Officer, the Honorable Sara Kyle.

RESPONSES TO REQUESTS

PRELIMINARY ISSUES

A. Cost Model Issues

This issue has been resolved. By order entered on August 13, 1997, the Tennessee Regulatory Authority ("TRA") determined that it intended to submit its own cost study to the Federal Communications Commission ("FCC"). Notice of the TRA's intentions was promptly communicated to the FCC.

B. Proposed Phase 1 & Phase 2 of Issues

BellSouth has no objection to conducting this proceeding in two phases. However, BellSouth submits that the issues to be decided in the proposed first phase may not permit the TRA to file its cost study with the FCC "on or before February 6, 1998," as required by the FCC. See Report and Order, *In re: Federal-*

State Joint Board on Universal Service, CC Docket No. 96-45, 248 (May 8, 1997) (hereinafter referred to as "Universal Service Order"). Because of this February 6, 1998 deadline, BellSouth suggests that the first phase of this proceeding should resolve all of the issues necessary for the TRA to complete its cost study, while all remaining issues (*e.g.*, who should administer the state universal service fund) should be deferred until the second phase.

C. Proposed Schedule

Because the TRA has until February 6, 1998 to provide its cost study to the FCC, BellSouth believes that the TRA should take full advantage of this time period to carefully consider the important issues it must resolve in the first phase of the proceedings. Thus, the hearing currently proposed for November 17-21, 1997 could be postponed until later, which would still give the TRA ample time to reach a decision and issue a written order prior to February 6, 1998.

In addition, the proposed schedule for Phase I does not establish a deadline for the filing of cost studies or provide for discovery, which BellSouth believes should be added. BellSouth proposes that cost studies be filed sometime in October with discovery to take place in October and November 1997. The remaining dates in the proposed schedule would be extended accordingly, including the dates for the second phase of the proceeding.

D. Consolidation

Because a primary vehicle used today to fund universal service in Tennessee is access charges, the issues in this docket are closely related to the issues in Docket 97-00889, and BellSouth recommends that the two proceedings be consolidated. BellSouth submits that no access charge reductions can be implemented until the existing universal service subsidy in Tennessee has been calculated and some other explicit universal service funding mechanism has been created.

E. Regulations Contemplated

Given the complexity and magnitude of some of the issues to be decided in this proceeding, BellSouth believes that the TRA should engage in rulemaking to incorporate in regulations those decisions which will provide the framework for the TRA's ongoing oversight of universal service.

F. Non-rural and Rural Carriers:

The FCC has determined that support for rural companies should be based initially on embedded costs and then transitioned to the use of a proxy cost model. BellSouth proposes that initially the high cost portion of the Tennessee universal service fund would apply only to non-rural eligible carriers. Once competition is authorized in a rural serving area or coincident with the FCC's inclusion of rural companies under the FCC's new universal service mechanism, rural companies would participate in the Tennessee universal service fund.

ISSUES FOR CONSIDERATION

IV. Definition of Universal Services

Under Tennessee law, Universal Service is defined in Tenn. Code Ann. § 65-5-207(a). The Telco Act section 254(c) defines Universal Service.

Under section 254(f), the Act provides a State may adopt regulations "not inconsistent with the Authority's rules to preserve and advance universal service."

A. ISSUE: Is Tennessee's definition under Tenn. Code Ann. § 65-5-207 (a), consistent with the Federal Act's definition of Universal Service? If not, is Tennessee's definition preempted by the Federal Act?

RESPONSE: The FCC's definition of the "core" or "designated" services that will receive federal universal service support is generally consistent with the definition of "residential basic local exchange service" which universal service must support under Tennessee law. See Universal Service Order ¶ 58-87; T.C.A. §§ 65-5-207(a) & 65-5-208(a)(1).

B. ISSUE: Should the TRA recommend to the Tennessee legislature that they adopt the Federal definition of Universal Service?

RESPONSE: No. Because the definitions of the services that must be supported by universal service under federal and state law are generally consistent, BellSouth does not believe it is necessary for the Tennessee General Assembly to adopt the Federal definition of universal service.

C. ISSUE: Whether the Federal or Tennessee definition of Universal Service or some combination of both is followed, what services should be provided?

RESPONSE: BellSouth believes that those services defined by the FCC as "core" or "designated" services should receive State universal service support.

D. ISSUE: Should the TRA provide for additional support under a Tennessee mechanism, for services in addition to those set forth by the FCC?

RESPONSE: Yes. In its Universal Service Order, the FCC determined that single line business lines should receive limited support. Rather than following the FCC's approach, the TRA should calculate support for a single line business line based on the difference between the cost of the service and the rate that can be charged. Since the rate for business lines is generally above the rate for residential lines, less support would be required.

In addition, due to the difficulty in distinguishing between primary lines and additional lines, universal service support should be provided for non-primary lines. At the very least, if support is not provided, pricing flexibility should be granted for these lines.

E. ISSUE: Should the TRA adopt specific procedures for passing upon "exceptional circumstances" as set forth in paragraphs 89-92 of the FCC order?

RESPONSE: No. Each request for review of "exceptional circumstance" should be carefully considered on a case-by-case basis. The FCC has identified several public interest instances where eligible carriers should be granted a reasonable amount of time to make necessary network upgrades to provide designated services. These instances include single party service, E911 capability (including carriers covered by the FCC's Wireless E911 Decision), and toll blocking. These eligible carriers would receive universal service support during the interim period.

F. ISSUE: Are there any telephone companies that will not be able to offer all the elements of Universal Service by the end of 1998? (e.g. toll blocking) If this is a problem, what steps are needed to remedy the situation?

RESPONSE: There may be some companies that will not be able to provide all aspects of the universal service elements by the end of 1998. In addition, while most companies can offer toll blocking, the FCC's inclusion of toll control in its definition of toll limitation presents a problem for all carriers. Toll control is not an issue solely related to installation of a feature on an incumbent local exchange carrier's ("ILEC") switching equipment. The ILEC is dependent upon receiving timely data from the interexchange carriers concerning toll calls made by the customer. In addition, toll control is limited to presubscribed long distance calls and does not include collect, dial around or credit card calls. Thus, the TRA should rule that a carrier satisfies its toll limitation obligation if it offers toll blocking.

V. Affordability

A. Define and consider affordability of rates:

Section 254(b)(1) of the Telco Act provides that, "quality services should be available at just, reasonable, and affordable rates." The definition of affordability contains both an absolute component "to have enough or the means for", which takes into account an individual's means to subscribe to Universal Service; and a relative component "to bear the cost of without serious detriment", which takes into account whether consumers are spending a disproportionate amount of their income on telephone service.

1. ISSUE: Provided that existing rates were set to the "just and reasonable" standard pursuant to Tenn. Code Ann. § 65-5-201, is there an assumption that current rates are set at an affordable level?

RESPONSE: BellSouth agrees that "just and reasonable" rates are synonymous with "affordable" rates. See T.C.A. § 65-5-209(a). BellSouth also agrees that rates that have been established consistent with T.C.A. § 65-5-201 or T.C.A. § 65-5-209 are, by definition, "affordable." Indeed, because Tennesseans enjoy some of the lowest residential basic local exchange rates in the United States, it would seem difficult to argue that existing rates are not "affordable." However, "affordability" is not an absolute concept, and there is a range within which rates can be considered affordable.¹ The more "affordable" (i.e., the lower) the rates, the greater the amount of universal service support that will be required.

2. ISSUE: Does the existence of programs to support low income consumers, further the argument that current rates meet the affordability requirement in Tennessee?

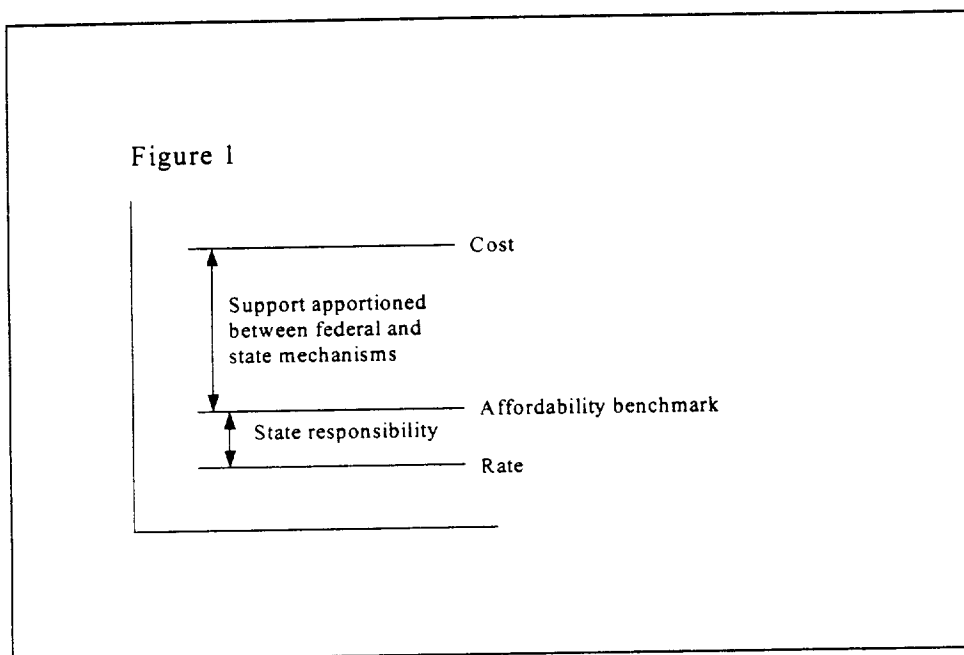
RESPONSE: Yes. The existence of such programs ensure that consumers with low income will be able to afford basic local exchange service.

3. ISSUE: Are there other factors that should be considered?

RESPONSE: Yes. Affordability should be considered in setting the benchmark, as illustrated in Figure 1 below. For example, the benchmark could be set at the state or county level based on a percentage of household median income. Using one percent of household median income would yield a monthly affordability level of \$24.18 for Tennessee, when looked at on a statewide basis.

¹ In fact, existing rates could likely be raised considerably and still be within the range of affordability (see response to Issue 3 below for further discussion of determining affordable rate levels).

If the "affordability" benchmark is higher than the existing rate level for supported services, then the State universal service fund will be required to contribute the difference. At the same time, it is important that the actual rate charged for residential basic local exchange service move towards this "affordability" level, which would thereby continue to ensure "affordable" rates while decreasing the amount of State universal service support required.



B. ISSUE: The FCC did not choose to adapt a nationwide rate for Universal Service. Should Tennessee adopt a statewide universal rate?

RESPONSE: While there should not be a wide range between rates for consumers in various areas of the state, the TRA need not adopt a single statewide rate.

C. ISSUE: Define explicit subsidy.

PROPOSAL FOR COMMENT: Explicit subsidy is a support that is calculable and identifiable vs. implicit subsidy which generally means there is a support but the exact amount of that support has not been determined. Is there a more appropriate definition?

RESPONSE: "Explicit," as defined by Webster's Collegiate Dictionary, means [to be] "fully revealed or expressed without vagueness." Therefore, BellSouth agrees that any definition of explicit subsidy must specify that it can be readily identifiable, such as an end-user surcharge. However, it also should address the concept of revenue and competitive neutrality. BellSouth agrees with the proposed definition of "implicit subsidy," although it should be made clear that it includes the support which is contained in the incumbent LECs' existing rate structure.

D. ISSUE: How may complaints filed on the affordability of intrastate rates be addressed?

PROPOSED REQUESTED: The FCC identifies several components to be considered when determining affordability of rates, such as subscribership levels, size of local calling area, consumer income level, cost of living, etc. What procedures would be least burdensome on carriers and the TRA, and would provide the information necessary to determine if rates are affordable on an ongoing basis?

RESPONSE: These procedures are presently in place for those companies operating under price regulation. Under T.C.A. § 65-5-209, rates established consistent with the requirements of the statute are deemed "affordable." A complaint challenging the rates under a price regulation plan would require the TRA to determine whether the rates are consistent with the cap and other statutory limitations, in which case the rates are "affordable." For companies operating

under rate-of-return regulation, the procedures are not as clear, and the TRA has wider latitude in adjusting the rates of such companies in order to ensure that such rates comply with applicable standards.

VI. Carriers Eligible for Universal Service Support

A. ISSUE: Define carrier of last resort.

PROPOSAL FOR COMMENT: The Staff defines carrier of last resort as the carrier ultimately responsible for the provision of telephone service including the provision of Universal Service core elements in a given area. Is there a better decision?

RESPONSE: BellSouth does not object to this definition, although it is unclear what distinction, if any, is being made between "the provision of telephone service" and "the provision of Universal Service core elements." The definition could be expanded to define the means by which the TRA intends to designate carriers of last resort and the applicable area of service.

B. ISSUE: Determine if a carrier of last resort designation is necessary.

PROPOSAL FOR COMMENT: The designation of a carrier of last resort for a given region is necessary to ensure that all Tennessee consumers are provided with telecommunication services. If no carrier of last resort is designated there is the potential danger of some consumers not being served. At what point, if any, would carrier of last resort designation become unnecessary.

RESPONSE: Tennessee law implicitly requires the designation of a carrier of last resort. *See* T.C.A. § 65-5-207(a). At some point in the future, when all consumers in all areas of Tennessee have a choice of local service providers, such a designation may become unnecessary.

C. ISSUE: What mechanism should be put in place if a carrier proposes to withdraw service?

PROPOSAL FOR COMMENT: It appears that mechanisms need to be developed to address the possibility that a carrier of last resort may desire to withdraw service in one or all regions which it serves. Allowing a carrier of last resort to withdraw needs to be based on specific and predictable criteria. At a minimum, the Staff proposes that no carrier of last resort should be allowed to withdraw service prior to the designation of another carrier to serve as the carrier of last resort. Do you have any suggestions on the criteria that needs to be established in order to allow a carrier to withdraw as carrier of last resort?

RESPONSE: The Telecommunications Act of 1996 ("1996 Act") sets forth a viable mechanism. A carrier proposing to withdraw service from an area is required to petition a State commission. Section 214(e)(4) of the 1996 Act provides that "[a] State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier." The carrier would provide advance notice to the TRA. The TRA would then require that the remaining carrier or carriers ensure that all customers served by the relinquishing carrier will continue to be served. The TRA also would require sufficient notice to permit the purchase or construction of adequate facilities by the remaining carrier(s). The TRA would establish a time, not to exceed one year after approval of relinquishment, for such purchase or construction of facilities.

D. ISSUE: What criteria should be used to designate eligible telecommunication carriers?

PROPOSAL FOR COMMENT: The FCC concluded that the plain language of section 214(e) precludes adoption of additional eligibility criteria beyond those enumerated in that section. Therefore, the FCC adopted without expansion the statutory criteria set out in section 214(e), as the rules governing eligibility. The Staff proposes to use the eligibility criteria of section 214(e) to designate eligible telecommunication carriers. Do you agree with this proposal?

RESPONSE: No. Section 254(f) of the 1996 Act authorizes the states to establish criteria for designation of eligible carriers which would provide for additional definitions and standards as long as such criteria do not rely on or burden federal universal service support mechanisms. BellSouth proposes that the TRA adopt as an additional standard that, in order to be eligible to receive state-supported universal service funding, the carrier also must satisfy the TRA's existing service objectives as set forth in Rule 1220-4-2-.34-1220-4-2-.41.

E. ISSUE: Should Universal Service support be provided to cellular carriers and resellers.

PROPOSAL FOR COMMENT: The FCC adopted without expansion the statutory criteria set out in section 214(e) as the rules governing eligibility. The FCC interpreted the term "facilities" in section 214(e)(1) to mean any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1). The FCC further concluded that a carrier that offers any of the services designated for Universal Service support, either in whole or in part, over facilities obtained as unbundled network elements pursuant to section 251(c)(3) satisfies the "own facilities" requirement of section 214(e). The staff recommends that the TRA use the criteria set forth by the FCC and to the extent that cellular carriers or resellers meet these criteria, they should be provided Universal Service support. Do you agree with this recommendation?

RESPONSE: BellSouth agrees with this proposal in part. In a resale situation, the underlying provider of the actual facilities receives the universal

service support, and not the reseller. This position is consistent with paragraph 152 of the FCC's Universal Service Order. However, numerous parties have sought clarification of the eligibility of resellers to receive universal service funding since the FCC's Order implies that resellers could be deemed eligible simply by providing limited services, such as operator services.² This issue should be resolved by the FCC and considered by the TRA. BellSouth agrees that cellular carriers that meet the criteria set forth by the FCC and the TRA should be eligible to receive universal service support.

F. ISSUE: What is the appropriate role of cooperatives in this proceeding?

PROPOSAL FOR COMMENT: Section 254(f) states, "Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of Universal Service in that State." It is clear that cooperatives will contribute to and receive support from the Universal Service support fund. Because the cooperatives will be included in the results of this proceeding, the Staff believes that cooperatives should be encouraged to participate fully in the Universal Service docket. Do you agree?

RESPONSE: Yes.

VII. High Cost Support

A. ISSUE: Should Tennessee perform its own forward looking cost study to determine intrastate Universal Service support? If not, should it work in conjunction with the FCC to determine methodology and inputs and adopt the FCC cost and revenue benchmark calculations? **Please note that comments on this issue are due August 1, 1997. Please see page 2, section A.**

² See, e.g., Time Warner's Petition for Reconsideration of the FCC's May 8, 1997 Order, dated July 17, 1997.

PROPOSAL FOR COMMENT: As stated above, in "Preliminary Matters" the Directors of the TRA will consider the issue of whether Tennessee should develop its own cost study at the Conference scheduled for August 5, 1997. Therefore, if the parties desire to comment further on this issue, they should file those comments by August 1, 1997.

RESPONSE: This issue has been resolved. By order entered on August 13, 1997, the TRA determined that it intended to submit its own cost study to the FCC. Notice of the TRA's intentions was promptly communicated to the FCC.

B. ISSUE: If it is determined that Tennessee will do a cost study what would be the core elements? (i.e. residential, business, usage).

1. What area should be included in each cost study?

2. The FCC requires diverging to the wire center serving area at least, and to smaller areas if feasible. Is this appropriate?

PROPOSAL FOR COMMENT: FCC Order 97-157 sections 54.101 and 54.207 set forth the services designated for support and service areas. Is it appropriate for Tennessee to adopt these services? If not, what services do you believe should receive Universal Service support. Also please comment on how service areas may be defined in Tennessee.

RESPONSE: Paragraph 224 of the FCC's Universal Service Order details the services that are to be supported by the federal fund, which include: single-party service; voice-grade access to the public switched network with the ability to place and receive calls; touch-tone or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services. It is appropriate for Tennessee to support these services through the State universal service support fund.

In addition, BellSouth believes that the TRA should calculate support for single line business lines based on the difference between the cost of the service and the rate that can be charged and should provide support for non-primary lines.

Defining the service areas at the same level, *i.e.*, wire center or lower, as defined by the FCC for purposes of federal universal service support and State support would be appropriate.

C. ISSUE: What elements should be included in the revenue benchmark?

PROPOSAL FOR COMMENT: The Staff expects to use the elements that will be included in the national benchmark, (local, discretionary, interstate and intrastate access services, and other revenues used in the cost study). Do you feel these are the appropriate elements to be included in the benchmark?

RESPONSE: No. It is not appropriate to include services that include the implicit support which explicit universal service support is meant to replace. Universal service support should be based upon the difference between the ongoing cost of providing universal service and the maximum rate allowed by the TRA for the services encompassed within the definition of universal service. The FCC's benchmark is simply an arbitrary number used to determine federal funding amounts.

VIII. Support for Low Income Consumers

A. ISSUE: Define a process to address any waiver requests of carriers to the no-disconnect rule.

PROPOSAL FOR COMMENT: The no-disconnect rule would prohibit disconnection of local service for Lifeline customers for non payment of toll charges. Despite the benefits of a no-disconnect rule for Lifeline consumers, the FCC recognized that state utility regulators would have the ability to grant carriers a limited waiver of the requirement under limited special circumstances. The Staff suggests that the TRA adopt the three requirements of the FCC for granting a waiver request. What is your position?

RESPONSE: BellSouth agrees that there should be very limited circumstances under which local service can be disconnected for non-payment by Lifeline customers. However, the requirements adopted by the FCC for a waiver of the non-disconnect rule are the subject of requests for reconsideration that are currently pending before the FCC. BellSouth believes that the TRA should defer addressing this issue until the FCC resolves the reconsideration requests.

B. ISSUE: Determine if the current level of state discounts for Lifeline should be changed.

PROPOSAL REQUESTED: Currently, Tennessee provides \$3.50 per month support of Lifeline. At the state's current level of funding (\$3.50/month) the FCC will provide an additional \$7.00 in federal support for a total of \$10.50 in support. If this level of support is maintained, then procedures may be considered to prevent Lifeline customers from receiving 100% free service. For instances, should a minimum amount be charged to the Lifeline customer? Please comment.

Tennessee has the option of reducing its monthly support amount, which in turn would reduce the federal funding. Any reduction in Tennessee's current funding of \$3.50 will result in a Federal reduction of one half of the amount of the Tennessee reduction, down to the minimum Federal funding amount of \$5.25. For example, Tennessee funds \$1.00, Federal minimum funding \$5.25. Federal matching of 1/2 of state is \$.50. This would provide total support of \$6.75. Please comment.

RESPONSE: The TRA should continue to fully fund the Lifeline program to support the low income customers of Tennessee. The federal Lifeline program

states that a low-income customer can receive up to the full amount of \$10.50 not to exceed the actual price of basic supported services including the subscriber line charge (SLC) of \$3.50. The FCC has structured its low-income support program in the following manner. The FCC will contribute \$3.50 to Tennessee low-income end users without any action by the TRA. To receive an additional \$1.75 from the federal program, all that is required of the TRA is to allow a \$1.75 credit against local basic exchange service for eligible end users. This would bring the federal contribution up to \$5.25. The FCC will contribute up to another \$1.75 -- bringing the federal funding to \$7.00 -- if a state has a program which contributes \$3.50. This last \$1.75 is based upon a 50% match to the state's contribution. Thus, Lifeline end users could receive up to a \$10.50 credit against their monthly bills.

If the TRA wishes to limit support to eligible low-income consumers to an amount less than \$10.50, it could limit the amount of state support. However, the basic rate would have to be taken into account since rates vary throughout the state for these basic services. BellSouth recommends for ease of administration that low income end users receive up to \$10.50 of the Lifeline funding.

C. ISSUE: Develop funding mechanisms.

PROPOSAL REQUESTED: The TRA requests comments from the parties on how funding for this support can be accomplished.

RESPONSE: The FCC has conditioned eligibility for receipt of any federal funding on participation in these low-income programs by all eligible

telecommunications carriers. Thus, if a carrier wishes to receive any funding, it must offer these low-income programs. The intrastate funding associated with Lifeline should be funded in the same manner as the high cost fund, i.e., through the assessment of intrastate telecommunications end user retail revenues. Participation in and funding of this program should be competitively neutral.

X. Schools and Libraries

A. ISSUE: Determine if additional intrastate support for eligible schools and libraries is needed.

PROPOSAL REQUESTED: During the July 15, 1997, TRA agenda, the Directors adopted the FCC matrix for federal funding to schools and libraries. In addition to this federal discount, the state currently has ISDN, School Parent Telecommunications Service, in Classroom Computer Access Service and Distance Learning Video Transport Service discounts available to schools and libraries.

1. Do any parties believe that more discounts to schools and libraries should be offered in addition to the federal discount matrix and the four state discounted services?

RESPONSE: No. BellSouth believes that no additional discounts are needed in addition to those provided through the federal universal service discount matrix and the four state discounted services as listed.

2. Should additional discounts to Internet services be provided by the state?

RESPONSE: No. BellSouth believes that only commercially available eligible telecommunications services should receive universal service support. The 1996 Act excludes Internet services from being eligible for universal service fund support since they are not telecommunications services.

B. ISSUE: Develop funding mechanisms if needed.

PROPOSAL REQUESTED: Cost studies need to be submitted on the current state discounted services to determine if, in fact, schools and libraries are receiving a subsidy. Additionally any other state discounted services will need studies to determine subsidies. Once the subsidy amounts are known a fund must be established to support the discounts. The TRA requests comments from the parties on how funding for this support can be accomplished. Please be specific and provide your view on whether support for schools and libraries should come from the same source of revenues used to support other Universal Service items.

RESPONSE: There is no need to require cost studies on all state discounted services. Instead, the TRA should follow its existing tariff filing procedures which allow providers to furnish cost studies for a tariffed service when the tariff rates no longer recover the cost of providing that service. Either the current preferential tariff rate, or the revised tariff rate based on cost study support when justified, could be used as the pre-discount price for determining the federal universal service support.

C. ISSUE: Address as necessary any school and library petitions regarding pre-discount price.

PROPOSAL REQUESTED: The FCC noted that if schools and libraries believe the lowest corresponding price offered to them is unfairly high or low, they may seek recourse from the state. What procedures do you believe could be put in place to ensure that schools and libraries are offered the lowest possible price. Also, if a school or library petitions the TRA regarding the price, what criteria should be used to determine if in fact the price is unreasonably high?

RESPONSE: The lowest corresponding price ("LCP") is defined to be the lowest price charged to similarly situated non-residential customers for similar services. BellSouth believes that in a competitive environment there is no need to

establish a procedure for controlling the level of pre-discount prices. Presumably, a school or library would not accept a bid from a particular carrier in a competitive bid situation unless the school or library was satisfied with the bid price. Even when there is only one bid submitted, it should be noted that bid was offered under the presumption that there would be other competitive bids. It should also be noted that the FCC'S Universal Service Order allows the service provider to seek recourse from the TRA if it believes that the LCP is too low.

The TRA should place some reasonable limits on a school's or library's ability to challenge the pre-discount price it has been offered. Without such reasonable limits, schools or libraries could potentially use the regulatory process as a means by which to try to obtain even more favorable prices without regard to the legitimacy of the challenge.

XI. Support for Health Care Providers

A. ISSUE: Determine if additional intrastate support for eligible health care providers is needed.

PROPOSAL REQUESTED: The TRA requests comments from the parties on whether additional health care discounts are needed.

RESPONSE: BellSouth does not believe that health care discounts beyond those provided under federal law are needed. The 1996 Act establishes a different standard for universal service support to eligible rural health care providers than that provided for schools and libraries. It does not address "discounts" for eligible rural health care providers. Instead, it allows those eligible entities to receive

eligible telecommunications services that are necessary for the provision of health care services in that state at rates reasonably comparable to those for similar services in urban areas in the state.

Depending on the comparable rate levels for those rural and urban services, an eligible rural health care provider may or may not be eligible for universal service support (for example, statewide geographic averaged rates, or basic exchange rates that are lower in rural areas than in urban areas).

B. ISSUE: Develop funding mechanisms.

PROPOSAL REQUESTED: The TRA requests comments from the parties on how funding for this support can be accomplished.

RESPONSE: BellSouth believes that there is no need for additional intrastate funding mechanisms because the federal fund provides universal service support for eligible health care providers.

XIII. Administration of Support Mechanisms

A. ISSUE: Determine which companies qualify as non-rural carriers and are subject to 1/1/99 Universal Service support.

PROPOSAL FOR COMMENT: BellSouth and United Telephone Southeast are the only companies which the Staff has identified as non-rural carriers. Are there others?

RESPONSE: No.

B. ISSUE: Determine method for transition from current support to new support.

PROPOSAL REQUESTED: The new support mechanisms approved will be the determining factor of the impact on transition from old support to the new system. Since the fund administrator is responsible for maintaining the new fund, it may be appropriate to allow the administrator to design a system for the transition. Please provide your opinion on a transition process.

RESPONSE: The funding for the Tennessee universal service fund should be revenue neutral on day one. Carriers should be required to reduce rates by the net of receipts from the fund. This will ensure that no new dollars flow to the LEC. This type of revenue neutral approach would be consistent with the approach that the FCC has proposed.

All non-rural ILECs should initially participate in the state high cost fund. In Tennessee, that would be BellSouth and United. As previously discussed, all eligible carriers for federal funding purposes -- both rural and non-rural -- must offer Lifeline and Link-Up programs. If the TRA institutes such a state program for these carriers, then they would draw from the fund for the state portion of Lifeline support.

Small ILECs not subject to competition need not be included in the state high cost fund for now. They could participate in high cost support once local competition is authorized in their areas or coincident with their inclusion in the new federal high cost fund.

C. **ISSUE:** Determine the structure of the intrastate Universal Service fund.

PROPOSAL REQUESTED: The TRA requests comments from the parties on these specific issues regarding the structure of the intrastate Universal Service Fund.

1. How will it be created?

RESPONSE: BellSouth proposes that the TRA create the fund through a final order in this docket which should be incorporated into regulations promulgated pursuant to the TRA's rulemaking authority.

2. Will it be consistent with or not consistent with the Federal fund?

RESPONSE: The 1996 Act requires that the state fund not be inconsistent with the federal fund. As previously discussed, the 1996 Act allows states to utilize additional criteria for state funding as long as it does not burden the federal fund.

3. Who will contribute to it?

RESPONSE: Consistent with the federal rules all telecommunications providers that provide intrastate telecommunications services in Tennessee must contribute. The FCC found that both common and non-common carriers should contribute.

4. How often will contributions be made?

RESPONSE: Contributions should be made on a quarterly basis.

5. What basis should be used for contributions?

RESPONSE: Consistent with the federal rules, BellSouth recommends that the state mechanism be funded through an assessment on the intrastate retail telecommunications services revenues of all intrastate telecommunications services providers.

6. Who is eligible to receive support?

RESPONSE: Under the 1996 Act, any carrier that is certified as “eligible” by the state commission is able to receive universal service support.

7. How funds will be distributed?

RESPONSE: Funds should be distributed in a manner consistent with the collection of contributions.

8. How should the TRA ensure that the fund is non-discriminatory and competitively neutral?

RESPONSE: Implementing a State universal service fund that is revenue neutral and in which all carriers that receive universal service support must participate would ensure nondiscrimination and competitive neutrality.

D. ISSUE: Determine notification requirements regarding companies’ certification of rural carrier status.

PROPOSAL REQUESTED: A carrier must notify the FCC and its state Commission, that for purposes of Universal Service support determinations, it meets the definition of a rural carrier. Carriers should make such a notification each year prior to the beginning of the Universal Service Fund payout period for that year. What procedures can be put in place to ensure that rural carriers satisfy this requirement?

RESPONSE: Rural carriers must, under FCC rules, self-certify as rural carriers by April 30 of each year. The state administrator can verify that each carrier has complied each year if the state requires rural carriers to include notification by the states to the administrator.

E. ISSUE: Determine need for public interest payphones and develop funding mechanisms, if required.

PROPOSAL REQUESTED: Please provide comments on what criteria you believe is necessary for determining the need for a public interest payphone. Funding for

public interest payphones may come from various sources such as the Universal Service Fund or an additive or charge on payphone access lines. What type of funding mechanisms do you believe would be appropriate for funding of public interest payphones.

RESPONSE: BellSouth would not be opposed to including Public Interest Payphones in the universal service fund. However, the TRA is not required by the FCC to resolve this issue until October 1998. Thus, this issue could be addressed in the second phase of this proceeding.

F. ISSUE: Determine if the TRA should administer the intrastate Universal Service Fund.

PROPOSAL REQUESTED: Please provide comments.

RESPONSE: The fund should be administered by a neutral third party. It could be administered by a number of entities, including the TRA, an independent financial institution or auditing firm, or the National Exchange Carriers Association (NECA). Regardless of who administers the fund, the TRA should have ongoing oversight responsibilities which include arbitrating disputes and taking whatever actions are necessary, including audits, to ensure financial integrity of the fund and that assessed parties pay what they owe to the fund.

G. ISSUE: Appoint intrastate Universal Service Fund Administrator.

PROPOSAL REQUESTED: What criteria should be established to determine qualifications as fund administrator?

RESPONSE: See BellSouth's response to Issue F above.

H. ISSUE: Determine if contributions to the Universal Service fund may be recovered by contributors (i.e. passed on to end users).

PROPOSAL REQUESTED: The FCC adopted a contribution assessment methodology that is competitive neutral and easy to administer. Contributions will be assessed against end users telecommunication revenues, revenues derived from end users for telecommunications, and telecommunications services, including SLCs. Please provide comments.

RESPONSE: Contributing carriers must be able to recover their payments into the universal service fund. Since some carriers have more latitude to recoup payments than others, the most economically efficient method of recovery is a uniform end user surcharge. If the TRA adopts a "pass through" mechanism to recover contributions through a carrier's rates, flexibility must be given to ILECs to ensure competitive neutrality.

XIV. Other

A. ISSUE: Would the use of task forces, advisory committees, technical conferences and settlement conferences in this proceeding be helpful?

PROPOSAL REQUESTED: Some parties have commented that these groups would be helpful. If you believe these groups would be beneficial, explain where these groups or meetings make sense.

RESPONSE: BellSouth believes that a task force or advisory committee would be useful in addressing issues that require considerable study and upon which there should not be significant disagreement, such as administration of the fund. BellSouth does not believe that a "settlement conference," particularly on the issue of cost models and calculation of universal service support, would be particularly fruitful.

B. ISSUE: Determine intrastate funding requirements for Tennessee Relay Center (TRC).

PROPOSAL REQUESTED: Currently, the intrastate costs of operating the TRC are divided between intraLATA and interLATA for the state. The intraLATA portion is funded by all LECs based on their proportionate share of intraLATA minutes of use and the interLATA portion is funded by all interexchange carriers based on their proportionate share of interLATA minutes of use. Options for funding the TRC could include the current system, through the Universal Service Fund, or establishment of a separate fund. Which option do you believe would be best? The current fund is administered by BellSouth. Do you believe BellSouth should continue as administrator of the TRC fund?

RESPONSE: The funding for the TRC should be a component of the universal service fund. An explicit subsidy should be established that is funded by an end-user surcharge similar to that used to fund E911 service. The current funding system is not competitively neutral. All carriers, not just intraLATA toll service providers and interexchange carriers, should contribute to TRC funding. TRC funding should be administered by the universal service fund administrator.

C. ISSUE: Determine effect of BST stay on Universal Service.

PROPOSAL REQUESTED: If the court remands the case back to the TRA, then the price regulation audit will have to be re-done to conform with the courts ruling, which in turn would effect implicit subsidy calculations. If the court supports the TRA's decision, then revenues of certain services will be lowered, thus reducing any implicit subsidies that may exist. Please provide your comments.

RESPONSE: BellSouth does not believe that the stay entered by the Court of Appeals has any effect on this proceeding. BellSouth is hopeful that the Court will render its decision before the TRA issues its final order in this Docket. However,

until the Court does so, BellSouth cannot speculate on how the Court's decision will impact this proceeding, if at all.

D. ISSUE: Determine any needed changes to TRA rules, state laws, etc.

PROPOSAL REQUESTED: Provide any necessary changes to TRA rules and/or State Laws to make them conform with the Federal Law.

RESPONSE: BellSouth is not presently aware of any specific changes that must be made to Tennessee law to "conform" it to federal law on the issue of universal service, although such changes may become necessary as this case proceeds. Furthermore, depending upon how the TRA resolves certain issues in this docket, it also may be necessary to seek other changes in State law or the TRA's regulations, such as allowing all telecommunications carriers greater pricing flexibility.

E. ISSUE: Determine date that Universal Service will be re-addressed.

PROPOSAL FOR COMMENT: The FCC is convening a Federal-State Joint Board to review the definition of Universal Service on or before January 1, 2001. The Staff would recommend that an intrastate Universal Service proceeding be held immediately following the Joint Board's decision. Please provide your comments.

RESPONSE: BellSouth concurs with the Staff recommendation that the TRA allow itself the opportunity to review the definition of universal service following the federal-state Joint Board's review of that definition on or before January 1, 2001.

F. ISSUE: Determine and implement service quality standards.

PROPOSAL REQUESTED: The FCC determined that states may impose service quality standards that are competitively neutral and further the goals of Universal Service. Consistent with these requirements, what service quality standards do you feel are necessary?

RESPONSE: The current service standards set forth in TRA Rule 1220-4-2-.34 through 1220-4-2-.39 are satisfactory for the purpose of furthering the goals of universal service in Tennessee. All providers of local exchange telecommunications services in Tennessee should be subject to these service standards in order to ensure competitive neutrality.

G. ISSUE: Are embedded costs studies appropriate to determine implicit subsidies?

PROPOSAL FOR COMMENT: Implicit subsidies are the support that currently exists for universal service elements. This current support is determined based on embedded costs, therefore, the Staff believes embedded costs are appropriate to determine implicit subsidies. Do you agree?

RESPONSE: BellSouth agrees that current universal service support is based upon embedded costs. BellSouth also notes that T.C.A. § 65-5-207(c)(8)(i) requires the TRA to consider "the embedded cost" of providing local service in establishing a State universal service fund, although the statute does not define the term or specify the manner in which such consideration should be given. However, the FCC has made clear that federal universal service support should be calculated by using the forward-looking economic cost of providing the supported service. Universal Service Order ¶ 223.

H. ISSUE: Determine method to calculate implicit subsidies (i.e. by element, group or category).

PROPOSAL FOR COMMENT: The Staff believes that implicit subsidies should be calculated in the most efficient and least burdensome manner. To facilitate this, the Staff prefers that implicit subsidies be calculated by service groups or categories. Please provide your comments.

RESPONSE: The total implicit subsidy received by basic local service (i.e., universal service) equals the cost of providing that service minus the rate charged for the service. This amount can be calculated in any given area (as well as state-wide) without the need to consider the services, groups of services, or categories of services that provide the subsidy.

I. ISSUE: Determine effect of contracts between LECs (i.e. EAS, toll, private line, etc.) on subsidies.

PROPOSAL REQUESTED: Please provide comments.

RESPONSE: Contracts are currently in place between ILECs in Tennessee for EAS, Toll and Private Line services. As Citizens Telephone has suggested, significant implicit subsidies are contained in these contracts, which should be addressed by the TRA.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

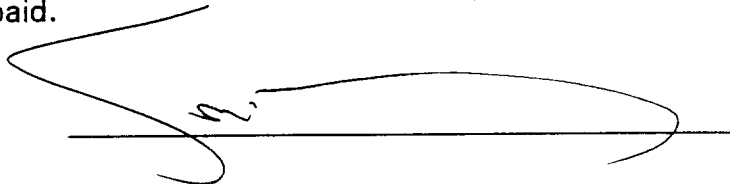
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CERTIFICATE OF SERVICE

I hereby certify that on this ^{5th} 21 day of August, 1997, a copy of the foregoing document was served on all entities served previously with documents filed in this proceeding as shown on the attached list, by depositing a copy of the same in the US Mail, postage prepaid.

A handwritten signature in black ink, consisting of a large, sweeping 'S' shape followed by a horizontal line and a small flourish.

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